

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE WORLD TRADE CENTER DISASTER	:	21 MC 100 (AKH)
SITE LITIGATION	:	(All Cases)
	:	
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IN RE WORLD TRADE CENTER LOWER	:	21 MC 102 (AKH)
MANHATTAN DISASTER SITE LITIGATION	:	(All Cases)
	:	
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IN RE COMBINED WORLD TRADE CENTER	:	21 MC 103 (AKH)
AND LOWER MANHATTAN DISASTER SITE	:	(All Cases)
LITIGATION (straddler plaintiffs)	:	
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**MEMORANDUM OF LAW IN RESPONSE TO DEFENDANTS' MOTION FOR
EXTENSION OF TIME**

Plaintiffs' Liaison Counsel, Worby Groner Edelman & Napoli Bern, LLP, respectfully submits this memorandum of law in partial opposition to the Settling Defendants'¹ motion for an extension of time pursuant to Paragraph 8 of Case Management Order Nos. 10, 7 and 2 in the 21 MC 100, 21 MC 102, and 21 MC 103 Consolidated Master Dockets. ("CMO 10")

The Plaintiffs agree with the settling defendants that the October 21, 2010 date in paragraph 8 in CMO 10 should be extended due to the sixty (60) day extension of the opt-in period from September 8, 2010 to November 8, 2010. However, the Plaintiffs also seek an extension of the deadline for plaintiffs to serve their Case-Specific Expert reports for new plaintiffs pursuant to paragraph 4 in CMO 10 from ninety (90) days after filing a Complaint until two hundred (200) days after filing a complaint. This extension is necessary in order to focus all plaintiffs' counsels' attention on resolving the thousands of claims that have been pending before

¹ The Settling Defendants are all entities identified in Exhibit A to the World Trade Center Litigation Settlement Process Agreement, As Amended.

this Court for over six years through the World Trade Center Settlement Process Agreement, as Amended (“SPA”) without jeopardizing its success, rather than spend limited attorney time in continuous meetings with various experts in order to obtain expert reports for cases that have been pending for only six months.

Paragraph 4 of CMO 10 states, in relevant part, that: “New plaintiffs that file cases after April 12, 2010, shall serve the Case-Specific Expert Report within ninety (90) days after filing a Complaint in accordance with the FRCP and the requirements of this CMO.” Almost all of the new plaintiffs cases that were filed after April 12, 2010 were filed on or about September 15, 2010. As a result, Case-Specific Expert reports for almost all of the new plaintiffs’ cases will be due on or about December 14, 2010.²

The month of December will most likely be utterly consumed by completing and finalizing claim forms for those plaintiffs who are opting-in to the SPA. These claim forms are currently due forty-five (45) days after the Final Settlement Effective Date pursuant to section XI.I. of the SPA. The Final Settlement Effective date should be shortly after the November 8, 2010 opt-in deadline. Thus, all settling plaintiffs’ claim forms will need to be submitted to the Allocation Neutral around December 23, 2010.

In order to avoid jeopardizing the SPA and in order to treat the settlements of the plaintiffs who are eligible to participate in the SPA with the priority they require, Plaintiffs’ counsel will need additional time to consult with their experts and serve their case-specific expert reports in those new cases that are not eligible to participate in the SPA. An extension of the deadline for plaintiffs to serve their Case-Specific Expert reports for new plaintiffs pursuant to

² Almost all of the new plaintiff complaints were dismissed without prejudice pursuant to this Court’s October 14, 2010 General Order Sua Sponte Dismissing Complaints (“Sua Sponte Order”). It is unclear if Plaintiffs’ Case-Specific Expert Reports will be due within ninety (90) days after their Amended Complaints are filed pursuant to the Court’s Sua Sponte Order or within 90 days after their original complaints were filed.

paragraph 4 in CMO 10 from ninety (90) days after filing a Complaint until two hundred (200) days after filing a complaint will help treat the plaintiffs who re eligible to participate in the SPA a priority. If plaintiffs' Case-Specific Expert reports are due 200 days after filing a complaint, rather than 90 days after filing a complaint almost all of plaintiffs case-specific expert reports will need to be served on or around April 2, 2011 instead of on or around December 14, 2010. This date is much more fair and reasonable given all of the upcoming deadlines in the SPA.

In light of the extension of the opt-in period to the SPA and in order to avoid jeopardizing or delaying the deadlines in the SPA any further, the plaintiffs agree with the settling defendants that the October 21, 2010 date in paragraph 8 in CMO 10 needs to be extended, however the plaintiffs respectfully request an extension of the deadline for plaintiffs to serve their Case-Specific Expert reports for new plaintiffs pursuant to paragraph 4 in CMO 10 from ninety (90) days after filing a Complaint until two hundred (200) days after filing a complaint.

Dated: October 25, 2010



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Plaintiffs' Liaison Counsel

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DECLARATION OF SERVICE

Christopher R. LoPalo, an attorney duly licensed to practice before the Courts of the State of New York, hereby declares that on October 25, 2010, I served the within upon all counsel of record through the Court's Electronic Filing system:



Christopher R. LoPalo (CL-6466)

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PLAINTIFFS' REPONSE TO DEFENDANTS' MOTION FOR EXTENSTION OF
TIME

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